Health and Safety at Work
(Asbestos) Regulations 2015

Governor-General

Order in Council

At Wellington this day of 2015

Present:
in Council

Pursuant to sections 221 and 227 of the Health and Safety at Work Act 2015, His Excellency the Governor-General makes the following regulations, acting—
(a) on the advice and with the consent of the Executive Council; and
(b) on the recommendation of the Minister for Workplace Relations and Safety after complying with sections 226 and 228 of that Act.

Contents

<table>
<thead>
<tr>
<th></th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Title</td>
</tr>
<tr>
<td>2</td>
<td>Commencement</td>
</tr>
<tr>
<td>3</td>
<td>Interpretation</td>
</tr>
<tr>
<td>4</td>
<td>Meaning of airborne contamination standard for asbestos</td>
</tr>
</tbody>
</table>

Consultation draft 1
Part 1

Work involving asbestos

Subpart 1—Conduct and general duties
5 Work involving asbestos or ACM 9
6 Exposure to airborne asbestos at workplace 10

Subpart 2—Management of asbestos risks
7 Asbestos to be identified or assumed at workplace 11
8 Analysis of sample 12
9 Presence and location of asbestos to be indicated 12
10 Asbestos register 13
11 Review of asbestos register 14
12 Access to asbestos register 14
13 Transfer of asbestos register by PCBU relinquishing management or control 15
14 Asbestos management plan 15
15 Review of asbestos management plan 16

Subpart 3—Health monitoring, training, and use of equipment
16 Duty to provide health monitoring 17
17 Duty to ensure that appropriate health monitoring is provided 17
18 Duty to train workers about asbestos 18
19 Duty to limit use of equipment 19

Subpart 4—Demolition and refurbishment
20 Application of this subpart 19
21 Review of asbestos register before demolition or refurbishment 20
22 Duty to give asbestos register to PCBU carrying out demolition or refurbishment 20
23 Duty to obtain asbestos register 20
24 Determining presence of asbestos or ACM 21
25 Identification and removal of asbestos before demolition 22
26 Identification and removal of asbestos before demolition of home 22
27 Emergency procedure 23
28 Emergency procedure: homes 24
29 Identification and removal of asbestos before refurbishment 24
30 Refurbishment of homes 25
### Part 2
#### Asbestos removal

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>31</td>
<td>Duty to ensure asbestos removalist is licensed</td>
</tr>
<tr>
<td>32</td>
<td>Nominated asbestos removal supervisor must be present or readily available</td>
</tr>
<tr>
<td>33</td>
<td>Asbestos removal worker must be trained</td>
</tr>
<tr>
<td>34</td>
<td>Licensed asbestos removalist must keep training records</td>
</tr>
<tr>
<td>35</td>
<td>Duty to give information about health risks of licensed asbestos removal work</td>
</tr>
<tr>
<td>36</td>
<td>Asbestos removalist must obtain register</td>
</tr>
<tr>
<td>37</td>
<td>Asbestos removal control plan</td>
</tr>
<tr>
<td>38</td>
<td>Asbestos removal control plan to be kept and available</td>
</tr>
<tr>
<td>39</td>
<td>WorkSafe must be notified of asbestos removal</td>
</tr>
<tr>
<td>40</td>
<td>Licensed removalist must inform certain persons about intended asbestos removal work</td>
</tr>
<tr>
<td>41</td>
<td>PCBU with management or control of a workplace must inform certain persons about asbestos removal work</td>
</tr>
<tr>
<td>42</td>
<td>Signage and barricades for asbestos removal work</td>
</tr>
<tr>
<td>43</td>
<td>Limiting access to asbestos removal area</td>
</tr>
<tr>
<td>44</td>
<td>Decontamination facilities</td>
</tr>
<tr>
<td>45</td>
<td>Disposing of asbestos waste and contaminated personal protective equipment</td>
</tr>
<tr>
<td>46</td>
<td>Clearance inspection</td>
</tr>
<tr>
<td>47</td>
<td>Clearance certificates</td>
</tr>
</tbody>
</table>

### Part 3
#### Class A licences and related air monitoring requirements

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>48</td>
<td>Air monitoring for Class A asbestos removal work</td>
</tr>
<tr>
<td>49</td>
<td>Action if respirable asbestos fibre level too high</td>
</tr>
<tr>
<td>50</td>
<td>Removing friable asbestos</td>
</tr>
</tbody>
</table>

### Part 4
#### Asbestos-related work

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>51</td>
<td>Application of Part 4</td>
</tr>
<tr>
<td>52</td>
<td>Uncertainty as to presence of asbestos</td>
</tr>
<tr>
<td>53</td>
<td>Duty to give information about health risks of asbestos-related work</td>
</tr>
<tr>
<td>54</td>
<td>Asbestos-related work to be in separate area</td>
</tr>
<tr>
<td>55</td>
<td>Air monitoring</td>
</tr>
<tr>
<td>56</td>
<td>Decontamination facilities</td>
</tr>
<tr>
<td>57</td>
<td>Disposing of asbestos waste and contaminated personal protective equipment</td>
</tr>
</tbody>
</table>
Health and Safety at Work (Asbestos) Regulations 2015

Part 5
Licensing of asbestos removalists and asbestos assessors

Subpart 1—Asbestos removalists—requirement to be licensed
58 Requirement to hold Class A asbestos removal licence 45
59 Exception to requirement to hold Class A asbestos removal licence 45
60 Requirement to hold Class B asbestos removal licence 46
61 Recognition of asbestos removal licences from other jurisdictions 46

Subpart 2—Asbestos assessors—requirement to be licensed
62 Requirement to hold asbestos assessor licence 47
63 Recognition of asbestos assessor licences in other jurisdictions 47

Subpart 3—Licensing process
64 Who may apply for licence 47
65 Application for asbestos removal licence or asbestos assessor licence 48
66 Content of application: Class A asbestos removal licence 49
67 Content of application: Class B asbestos removal licence 50
68 Content of application: asbestos assessor licence 50
69 Additional information 51
70 Decision on application 51
71 Class A asbestos removal licence: WorkSafe to be satisfied about additional matters 52
72 Class B asbestos removal licence: WorkSafe to be satisfied about additional matters 53
73 Matters to be taken into account in considering licence application 53
74 Refusal to grant licence: process 54
75 Conditions of licence 55
76 Duration of licence 55
77 Licence document 55
78 Licence document to be available 56

Subpart 4—Alteration of licence and related matters
79 Changes to information 56
80 Change to nominated supervisor 57
81 Amendment imposed by WorkSafe 57

Consultation draft
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>82</td>
<td>Amendment on application by licence holder</td>
</tr>
<tr>
<td>83</td>
<td>Minor corrections to licence</td>
</tr>
<tr>
<td>84</td>
<td>WorkSafe to give amended licence to holder</td>
</tr>
<tr>
<td>85</td>
<td>Licence holder to return licence</td>
</tr>
<tr>
<td>86</td>
<td>Replacement licence document</td>
</tr>
<tr>
<td>87</td>
<td>Voluntary surrender of licence</td>
</tr>
</tbody>
</table>

Subpart 5—Renewal of licence

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>88</td>
<td>WorkSafe may renew licence</td>
</tr>
<tr>
<td>89</td>
<td>Application for renewal</td>
</tr>
<tr>
<td>90</td>
<td>Provisions relating to renewal of licence</td>
</tr>
<tr>
<td>91</td>
<td>Renewal of asbestos removal licence—WorkSafe to be satisfied about certain matters</td>
</tr>
<tr>
<td>92</td>
<td>Status of licence during review or appeal</td>
</tr>
</tbody>
</table>

Subpart 6—Suspension and cancellation of licence

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>93</td>
<td>Suspension or cancellation of licence</td>
</tr>
<tr>
<td>94</td>
<td>Matters to be taken into account in considering suspension or cancellation of licence</td>
</tr>
<tr>
<td>95</td>
<td>Notice to and submissions by licence holder</td>
</tr>
<tr>
<td>96</td>
<td>Notice of decision</td>
</tr>
<tr>
<td>97</td>
<td>Immediate suspension</td>
</tr>
<tr>
<td>98</td>
<td>Licence holder to return licence document</td>
</tr>
<tr>
<td>99</td>
<td>WorkSafe to return licence document after suspension</td>
</tr>
</tbody>
</table>

Subpart 7—Review of decisions

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Which decisions under these regulations are reviewable</td>
</tr>
<tr>
<td>101</td>
<td>How to apply for review</td>
</tr>
<tr>
<td>102</td>
<td>WorkSafe to acknowledge receipt of review application</td>
</tr>
<tr>
<td>103</td>
<td>Review decisions</td>
</tr>
<tr>
<td>104</td>
<td>Appeal to District Court</td>
</tr>
</tbody>
</table>

Subpart 8—General

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>105</td>
<td>Asbestos removal licence register</td>
</tr>
<tr>
<td>106</td>
<td>Asbestos assessors register</td>
</tr>
</tbody>
</table>

Part 6

Miscellaneous provisions

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>107</td>
<td>Safe work instruments</td>
</tr>
<tr>
<td>108</td>
<td>Delegation</td>
</tr>
<tr>
<td>109</td>
<td>Transitional, savings, and related provisions</td>
</tr>
<tr>
<td>110</td>
<td>Revocation</td>
</tr>
</tbody>
</table>

Schedule 1

Fees

Consultation draft
1 Title
These regulations are the Health and Safety at Work (Asbestos) Regulations 2015.

2 Commencement
These regulations come into force on [date].

3 Interpretation
(1) In these regulations, unless the context otherwise requires,—
   Act means the Health and Safety at Work Act 2015
   airborne contamination standard for asbestos means the standard set out in regulation 4
   approved code of practice means a code of practice approved by the Minister under section 229 of the Act
   asbestos means the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals, including the following:
   (a) actinolite asbestos:
   (b) grunerite (or amosite) asbestos (brown):
   (c) anthophyllite asbestos:
   (d) chrysotile asbestos (white):
   (e) crocidolite asbestos (blue):
   (f) tremolite asbestos:
   (g) a mixture that contains 1 or more of the minerals referred to paragraphs (a) to (f)
   asbestos-containing material or ACM means any material or thing that, as part of its design, contains asbestos
   asbestos-contaminated dust or debris or ACD means dust or debris that has settled within a workplace and is, or is assumed to be, contaminated with asbestos
   asbestos-contaminated soil means soil that is contaminated with asbestos or ACM
asbestos management plan has the meaning given in regulation 14
asbestos register has the meaning given in regulation 10
asbestos-related work means work involving asbestos (other than asbestos removal work to which Part 2 applies) that is permitted under the exceptions set out in regulation 5(2), (3), and (4)
asbestos removal licence means a Class A or Class B asbestos removal licence
asbestos removal work means—
(a) work involving the removal of asbestos or asbestos-contaminated soil or asbestos-containing material; or
(b) in Part 5, Class A or Class B asbestos removal work
asbestos removalist means a PCBU who carries out asbestos removal work
asbestos waste means asbestos or asbestos-contaminated soil or asbestos-containing material removed, and disposable items used, during asbestos removal work, including plastic sheeting and disposable tools
certified safety management system means a safety management system that—
(a) complies with Australia/New Zealand Standard AS/NZS 4801:2001 (Occupational Health and Safety Management Systems); or
(b) is prescribed in a safe work instrument made under regulation 107
Class A asbestos removal licence means a licence granted in accordance with regulations 70 and 71 authorising the holder to carry out Class A asbestos removal work
Class B asbestos removal licence means a licence granted in accordance with regulations 70 and 72 authorising the holder to carry out Class B asbestos removal work
Class A asbestos removal work means work specified in regulation 58(1) and (2) for which a Class A asbestos removal licence is required
Class B asbestos removal work means work specified in regulation 60(1) and (2) for which a Class B asbestos removal licence is required
competent person means a person who has the knowledge, experience, skills, and qualifications to carry out a task required by these regulations

construct includes assemble, erect, reconstruct, re-assemble, and re-erect

corresponding jurisdiction means an Australian State or territory

corresponding law means a law of a corresponding jurisdiction that regulates work involving asbestos

corresponding regulator means a regulator under a corresponding law

demolition includes deconstruction

friable, in relation to asbestos or ACM, means in a powder form or able to be crumbled, pulverised, or reduced to a powder by hand pressure when dry

health means physical and mental health

high-pressure water spray means water pressurised by positive displacement pumps with an output capability greater than 800 bar litres per minute

IANZ-accredited laboratory means a laboratory accredited by International Accreditation New Zealand (IANZ)

naturally occurring asbestos means the natural geological occurrence of asbestos minerals found in association with geological deposits such as rock, sediment, or soil

non-friable, in relation to asbestos or ACM, means not friable (and for the purposes of this definition, asbestos and ACM include material containing asbestos fibres reinforced with a bonding compound)

prescribed label means a label in the form prescribed in a safe work instrument made under regulation 107

prescribed testing method means a method, prescribed in a safe work instrument made under regulation 107, for determining the level of asbestos in soil

representative, in relation to a worker, means—
(a) the health and safety representative for the worker; or
(b) a union representing the worker; or
Health and Safety at Work (Asbestos) Regulations 2015

(c) any other person the worker authorises to represent the worker

**respirable asbestos fibre** means an asbestos fibre that—
(a) is less than 3 micrometres wide; and
(b) is more than 5 micrometres long; and
(c) has a length-to-width ratio of more than 3:1.

(2) Terms or expressions used and not defined in these regulations but defined in the Act have, in these regulations, the same meaning as in the Act.

4 **Meaning of airborne contamination standard for asbestos**
The **airborne contamination standard for asbestos** is an average concentration over any 8-hour period of 0.1 respirable asbestos fibres per millilitre of air.

**Part 1**

**Work involving asbestos**

Subpart 1—Conduct and general duties

5 **Work involving asbestos or ACM**

(1) A PCBU must not carry out, or direct or allow a worker to carry out, work involving asbestos.

(2) Subclause (1) does not apply if the work involving asbestos is any of the following:
(a) genuine research and analysis:
(b) sampling and identification in accordance with these regulations:
(c) removal or disposal of asbestos or ACM, including demolition, in accordance with these regulations:
(d) the transport and disposal of asbestos or asbestos waste in accordance with these regulations:
(e) demonstrations, education, or practical training in relation to asbestos or ACM:
(f) firefighting:
(g) a response to an emergency:
(h) maintenance and servicing work involving ACM in accordance with these regulations:
(i) rectifying work to ACM undertaken in accordance with these regulations:

Consultation draft 9
(j) display, or preparation or maintenance for display, of an artefact or thing that is, or includes, asbestos or ACM:

(k) work that disturbs asbestos during mining operations that involve the extraction of, or exploration for, a mineral other than asbestos:

(l) laundering asbestos-contaminated clothing in accordance with these regulations.

(3) Subclause (1) does not apply if WorkSafe approves a relevant method for managing risk associated with asbestos.

(4) Subclause (1) does not apply to the following:

(a) soil that a competent person has determined—
    (i) does not contain any visible ACM or friable asbestos; or
    (ii) if it contains visible friable asbestos, does not contain more than trace levels of asbestos determined in accordance with a prescribed testing method:

(b) naturally occurring asbestos managed in accordance with an asbestos management plan prepared under regulation 14.

(5) In this regulation, work involves asbestos if the work involves manufacturing, supplying, transporting, storing, removing, using, installing, handling, treating, disposing of, or disturbing asbestos or ACM.

(6) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [x]:

(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 419

6 Exposure to airborne asbestos at workplace

(1) A PCBU with management or control of a workplace must ensure that—

(a) exposure of a person at the workplace to airborne asbestos is eliminated so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate exposure to airborne asbestos, exposure is minimised so far as is reasonably practicable.
(2) A PCBU with management or control of a workplace must ensure that the airborne contamination standard for asbestos is not exceeded at the workplace.

(3) Subclauses (1)(a) and (2) do not apply in relation to an asbestos removal area—
  (a) that is enclosed to prevent the release of respirable asbestos fibres in accordance with regulation 50; and
  (b) in which negative pressure is used in accordance with that regulation.

(4) A PCBU who contravenes subclause (2) commits an offence and is liable on conviction,—
  (a) for an individual, to a fine not exceeding \[x\];
  (b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 420

Subpart 2—Management of asbestos risks

7 Asbestos to be identified or assumed at workplace

(1) A PCBU with management or control of a workplace must ensure, so far as is reasonably practicable, that all asbestos or ACM at the workplace is identified by a competent person.

(2) A PCBU with management or control of a workplace must,—
  (a) if material at the workplace cannot be identified but a competent person reasonably believes that the material is asbestos or ACM, assume that the material is asbestos; and
  (b) if part of the workplace is inaccessible to workers and likely to contain asbestos or ACM, assume that asbestos is present in the part of the workplace.

(3) Subclause (1) does not apply if the PCBU—
  (a) assumes that asbestos or ACM is present; or
  (b) has reasonable grounds to believe that asbestos or ACM is not present.

(4) Subclause (1) does not apply in relation to soil at the workplace unless there is reasonable cause for the PCBU to suspect that asbestos-contaminated soil is present.

(5) If asbestos or ACM is assumed to be present at a workplace, it is taken to be identified at the workplace.
(6) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([x]\):
   (b) for any other person, to a fine not exceeding \([y]\).
Compare: Model Work Health and Safety Regulations 2011 (Aust) r 422

8 Analysis of sample
(1) A PCBU with management or control of a workplace may identify asbestos or ACM by arranging for a sample of material at the workplace to be analysed for the presence of asbestos or ACM.
(2) If a PCBU with management or control of a workplace arranges for an analysis, the PCBU must ensure that the sample is analysed only by—
   (a) an IANZ-accredited laboratory accredited for the relevant test method; or
   (b) a laboratory approved by WorkSafe in accordance with guidelines published by WorkSafe; or
   (c) a laboratory operated by WorkSafe.
(3) A PCBU who contravenes subclause (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([a]\):
   (b) for any other person, to a fine not exceeding \([b]\).
Compare: Model Work Health and Safety Regulations 2011 (Aust) r 423

9 Presence and location of asbestos to be indicated
(1) A PCBU with management or control of a workplace must ensure that—
   (a) the presence and location of asbestos or ACM identified at the workplace under regulation 7 are clearly indicated; and
   (b) if it is reasonably practicable to do so, the presence and location of the asbestos or ACM are indicated by a label.
(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([x]\):
   (b) for any other person, to a fine not exceeding \([y]\).
Compare: Model Work Health and Safety Regulations 2011 (Aust) r 424
10 Asbestos register

(1) A PCBU with management or control of a workplace must ensure that a register (an asbestos register) is prepared and kept at the workplace.

(2) The PCBU must ensure that the information in the register is kept up to date.

(3) The asbestos register must—
   (a) contain a record of any asbestos or ACM identified at the workplace under regulation 7, or likely to be present at the workplace from time to time, which must include—
      (i) the date on which the asbestos or ACM was identified; and
      (ii) the location, type, and condition of the asbestos or ACM; or
   (b) state that no asbestos or ACM is identified at the workplace if the PCBU knows that no asbestos or ACM is identified, or is likely to be present from time to time, at the workplace.

(4) The PCBU is not required to prepare an asbestos register for a workplace if a register has already been prepared for that workplace.

(5) Subject to subclause (6), this regulation applies to buildings whenever they are constructed.

(6) This regulation does not apply to a workplace if—
   (a) the workplace is a building that was constructed after 31 December 1999; and
   (b) no asbestos has been identified at the workplace; and
   (c) no asbestos is likely to be present at the workplace from time to time.

(7) This regulation does not apply to a workplace that is a home.

(8) A PCBU who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [m];
   (b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 425
11 **Review of asbestos register**

(1) A PCBU with management or control of a workplace where an asbestos register is kept must ensure that the register is reviewed and as necessary revised if—
   (a) the asbestos management plan is reviewed under regulation 15; or
   (b) further asbestos or ACM is identified at the workplace; or
   (c) asbestos is removed from, or disturbed, sealed, or enclosed at, the workplace.

(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [m]:
   (b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 426

12 **Access to asbestos register**

(1) A PCBU with management or control of a workplace where an asbestos register is kept must ensure that the asbestos register is readily accessible to—
   (a) a worker who has carried out, carries out, or intends to carry out work at the workplace; and
   (b) a representative of a worker referred to in paragraph (a); and
   (c) a PCBU who has carried out, carries out, or intends to carry out work at the workplace; and
   (d) a PCBU who has required, requires, or intends to require work to be carried out at the workplace.

(2) If a PCBU carries out, or intends to carry out, work at a workplace that involves a risk of exposure to airborne asbestos, the PCBU with management or control of the workplace must ensure that the PCBU is given a copy of the asbestos register.

(3) A PCBU who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [m]:
   (b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 427
13 **Transfer of asbestos register by PCBU relinquishing management or control**

(1) If a PCBU with management or control of a workplace plans to relinquish management or control of the workplace, the PCBU must ensure, so far as is reasonably practicable, that the asbestos register is given to the person, if any, that will assume management or control of the workplace.

(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [m]:
   (b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 428

14 **Asbestos management plan**

(1) This regulation applies if asbestos or ACM is—
   (a) identified at a workplace under regulation 7; or
   (b) likely to be present at a workplace from time to time.

(2) A PCBU with management or control of the workplace must ensure that a written plan (an asbestos management plan) for the workplace is prepared.

(3) A PCBU with management or control of the workplace must ensure that the information in the asbestos management plan is kept up to date.

(4) An asbestos management plan must include information about the following:
   (a) the identification of asbestos or ACM:
   (b) decisions, and reasons for decisions, about the management of asbestos at the workplace:
   (c) procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace:
   (d) the workers who carry out work involving asbestos, including—
      (i) information and training that has been and will be provided to the workers:
      (ii) roles and responsibilities of the workers:
      (iii) health monitoring of the workers that has been or will be undertaken.
(5) A PCBU with management or control of a workplace must ensure that a copy of the asbestos management plan for the workplace is readily accessible to—
(a) a worker who has carried out, carries out, or intends to carry out work at the workplace; and
(b) a representative of a worker referred to in paragraph (a); and
(c) a PCBU who has carried out, carries out, or intends to carry out work at the workplace; and
(d) a PCBU who has required, requires, or intends to require work to be carried out at the workplace.

(6) A PCBU who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x];
(b) for any other person, to a fine not exceeding [y].

(7) A PCBU who contravenes subclause (5) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [m];
(b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 429

15 Review of asbestos management plan

(1) A PCBU with management or control of a workplace that has an asbestos management plan must ensure that the plan is reviewed and, if necessary, revised if—
(a) there is a review of the asbestos register or a control measure;
(b) asbestos is removed from, or disturbed, sealed, or enclosed at, the workplace;
(c) the plan is no longer adequate for managing asbestos or ACM at the workplace;
(d) a representative requests a review under subclause (2);
(e) 5 years have passed since the plan was last reviewed.

(2) A representative for workers at a workplace may request a review of an asbestos management plan if the representative reasonably believes that—
(a) a circumstance referred to in subclause (1)(a), (b), or (c) affects or may affect the health and safety of a member of the work group represented by the representative; and
(b) the PCBU with management and control of the workplace has not adequately reviewed the asbestos management plan in response to the circumstance.

(3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [m];
(b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 430

Subpart 3—Health monitoring, training, and use of equipment

16 Duty to provide health monitoring

(1) A PCBU must ensure that health monitoring is provided, in accordance with regulation 17 and Part 4 of the Health and Safety at Work (General Risk and Workplace Management) Regulations 2015, to a worker carrying out work for the business or undertaking if the worker is—

(a) carrying out licensed asbestos removal work at a workplace and is at risk of exposure to asbestos when carrying out the work; or
(b) carrying out other ongoing asbestos removal work or asbestos-related work and is at risk of exposure to asbestos when carrying out the work.

(2) For the purposes of subclause (1)(a), the PCBU must ensure that the health monitoring of the worker commences before the worker carries out licensed asbestos removal work.

(3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [x];
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 435(1)-(2)

17 Duty to ensure that appropriate health monitoring is provided

(1) A PCBU must ensure that (unless another type of health monitoring is recommended by a medical practitioner) the health monitoring of a worker referred to in regulation 16 includes—

(a) consideration of—
(i) the worker’s demographic, medical, and occupational history; and
(ii) records of the worker’s personal exposure to asbestos; and
(b) a physical examination of the worker.

(2) In this regulation, medical practitioner has the meaning given in section 5(1) of the Health Practitioners Competence Assurance Act 2003.

(3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[x\];
(b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 436

18 Duty to train workers about asbestos

(1) In addition to the training required by regulation 9 of the Health and Safety at Work (General Risk and Workplace Management) Regulations 2015, a PCBU must ensure that workers who are engaged by the PCBU and who the PCBU reasonably believes may be involved in asbestos removal work or in the carrying out of asbestos-related work are trained in the identification and safe handling of, and suitable control measures for, asbestos and ACM.

(2) This regulation does not apply in relation to a worker referred to in regulation 33.

(3) The PCBU must ensure that a record is kept of the training undertaken by the worker—
(a) while the worker is carrying out the work; and
(b) for 5 years after the day on which the worker ceases working for that PCBU.

(4) The PCBU must keep the record available for inspection under the Act.

(5) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[x\];
(b) for any other person, to a fine not exceeding \[y\].

(6) A PCBU who contravenes subclause (3) or (4) commits an offence and is liable on conviction,—
Duty to limit use of equipment

(1) A PCBU must not use, or direct or allow a worker to use, either of the following on asbestos or ACM:
(a) high-pressure water spray;
(b) compressed air.

(2) Subclause (1)(a) does not apply to the use of a high-pressure water spray for fire-fighting or fire protection purposes.

(3) A PCBU must not use, or direct or allow a worker to use, any of the following equipment on asbestos or ACM unless the use of the equipment is controlled:
(a) a power tool;
(b) a broom;
(c) any other implement that causes the release of airborne asbestos into the atmosphere.

(4) In subclause (3), the use of equipment is controlled if—
(a) the equipment is enclosed while being used; or
(b) the equipment is designed to capture or suppress airborne asbestos and is used in accordance with its design; or
(c) the equipment is used in a way that is designed to capture or suppress airborne asbestos safely; or
(d) any combination of paragraphs (a), (b), and (c) applies.

(5) A PCBU who contravenes subclause (1) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [a];
(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 445

Subpart 4—Demolition and refurbishment

Application of this subpart

(1) This subpart applies to the demolition or refurbishment of a structure or plant—
(a) constructed or installed before 1 January 1990; or
(b) in which asbestos has been identified; or
Part 1 r 21

Health and Safety at Work (Asbestos)
Regulations 2015

(c) in which asbestos is likely to be present from time to time.

(2) In this regulation, demolition or refurbishment does not include minor or routine maintenance work, or other minor work.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 447

21 Review of asbestos register before demolition or refurbishment

(1) The PCBU with management or control of a workplace must ensure that, before demolition or refurbishment is carried out at the workplace, the asbestos register for the workplace is—
(a) reviewed; and
(b) if the register is inadequate, having regard to the proposed demolition or refurbishment, revised.

(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [m]:
(b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 448

22 Duty to give asbestos register to PCBU carrying out demolition or refurbishment

(1) The PCBU with management or control of a workplace must ensure that the PCBU who carries out the demolition or refurbishment is given a copy of the asbestos register before the demolition or refurbishment is commenced.

(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 449

23 Duty to obtain asbestos register

(1) A PCBU who carries out demolition or refurbishment at a workplace must, before commencing the demolition or refurbishment, obtain a copy of the asbestos register from the PCBU with management or control of the workplace.

Consultation draft
(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding $x$;
(b) for any other person, to a fine not exceeding $y$.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 450

24 Determining presence of asbestos or ACM

(1) This regulation applies if—
(a) demolition or refurbishment of a structure or plant is to be carried out at a workplace; and
(b) there is no asbestos register for that structure or plant.

(2) The PCBU who is to carry out the demolition or refurbishment must not carry out the demolition or refurbishment until the structure or plant has been inspected to determine whether asbestos or ACM is fixed to or installed in the structure or plant.

(3) The PCBU who is to carry out the demolition or refurbishment must ensure that the determination is undertaken by a competent person.

(4) The PCBU who is to carry out the demolition or refurbishment must assume that asbestos or ACM is fixed to or installed in the structure or plant if—
(a) the competent person is, on reasonable grounds, uncertain whether asbestos is fixed to or installed in the structure or plant; or
(b) part of the structure or plant is inaccessible and likely to be disturbed.

(5) If asbestos or ACM is determined or assumed to be fixed to or installed in the structure or plant, the PCBU who is to carry out the demolition or refurbishment must inform,—
(a) if the workplace is a home,—
   (i) the occupier of the home; and
   (ii) the owner of the home; and
(b) in any other case, the PCBU with management or control of the workplace.

(6) A PCBU who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding $x$;
(b) for any other person, to a fine not exceeding $y$. 
(7) A PCBU who contravenes subclause (5) commits an offence and is liable on conviction,—  
  (a) for an individual, to a fine not exceeding [m]:  
  (b) for any other person, to a fine not exceeding [n].  

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 451

25 Identification and removal of asbestos before demolition

(1) This regulation applies if a structure or plant at a workplace is to be demolished.

(2) This regulation does not apply—  
  (a) in an emergency to which regulation 27 applies; or  
  (b) to a home.

(3) The PCBU with management or control of the workplace, or of the structure or plant, must ensure—  
  (a) that all asbestos that is likely to be disturbed by the demolition is identified; and  
  (b) so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

(4) Subclause (3)(b) does not apply if the purpose of the demolition is to gain access to the asbestos.

(5) A PCBU who contravenes subclause (3) commits an offence and is liable on conviction,—  
  (a) for an individual, to a fine not exceeding [x]:  
  (b) for any other person, to a fine not exceeding [y].  

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 452

26 Identification and removal of asbestos before demolition of home

(1) A PCBU that is to carry out the demolition of a home must ensure—  
  (a) that all asbestos that is likely to be disturbed by the demolition is identified; and  
  (b) so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

(2) This regulation does not apply in an emergency to which regulation 28 applies.

(3) Subclause (1)(b) does not apply if the purpose of the demolition is to gain access to the asbestos.
Health and Safety at Work (Asbestos)
Regulations 2015

Part 1 r 27

(4) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[x\];
(b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 453

27 Emergency procedure

(1) This regulation applies if—
(a) an emergency occurs at a workplace other than a home; and
(b) a structure or plant at the workplace must be demolished; and
(c) asbestos is fixed to or installed in the structure or plant before the emergency occurs.

(2) The PCBU with management or control of the workplace must ensure, so far as is reasonably practicable, that—
(a) before the demolition is commenced, a procedure is developed that will, so far as is reasonably practicable, reduce the risk of exposure of workers and persons in the vicinity of the demolition site to asbestos to below the airborne contamination standard for asbestos; and
(b) the asbestos register for the workplace is considered in the development of the procedure.

(3) The PCBU must ensure that WorkSafe is given written notice about the emergency—
(a) immediately after the PCBU becomes aware of the emergency; and
(b) before the demolition is commenced.

(4) For the purposes of this regulation, an emergency occurs if—
(a) a structure or plant is structurally unsound; or
(b) the collapse of a structure or plant is imminent.

(5) A PCBU who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[m\];
(b) for any other person, to a fine not exceeding \[n\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 454
28 Emergency procedure: homes
(1) This regulation applies if—
   (a) an emergency occurs at a home; and
   (b) a structure or plant at the home must be demolished; and
   (c) asbestos is fixed to or installed in the structure or plant
       before the emergency occurs.
(2) A PCBU who is to carry out the demolition at the home must
    ensure, so far as is reasonably practicable, that, before the de-
    molition is commenced, a procedure is developed that will, so
    far as is reasonably practicable, reduce the risk of exposure of
    workers and persons in the vicinity of the demolition site to
    asbestos to below the airborne contamination standard for as-
    bestos.
(3) The PCBU must ensure that WorkSafe is given written notice
    about the emergency—
    (a) immediately after the PCBU becomes aware of the
        emergency; and
    (b) before the demolition is commenced.
(4) For the purposes of this regulation, an emergency occurs if—
    (a) a structure or plant is structurally unsound; or
    (b) the collapse of a structure or plant is imminent.
(5) A PCBU who contravenes subclause (2) or (3) commits an
    offence and is liable on conviction,—
    (a) for an individual, to a fine not exceeding [m];
    (b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 455

29 Identification and removal of asbestos before refurbishment
(1) This regulation applies if a structure or plant at a workplace is
    to be refurbished.
(2) This regulation does not apply to homes.
(3) The PCBU with management or control of the workplace, or
    of the structure or plant, must ensure—
    (a) that all asbestos that is likely to be disturbed by the
        refurbishment is identified; and
    (b) so far as is reasonably practicable, that the asbestos is
        removed before the refurbishment is commenced.
Health and Safety at Work (Asbestos)
Regulations 2015

Part 2 r 31

(4) A PCBU who contravenes subclause (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([x]\):
   (b) for any other person, to a fine not exceeding \([y]\).
   Compare: Model Work Health and Safety Regulations 2011 (Aust) r 456

30 Refurbishment of homes

(1) A PCBU who is to carry out refurbishment of a home must ensure—
   (a) that all asbestos that is likely to be disturbed by the refurbishment is identified; and
   (b) so far as is reasonably practicable, that the asbestos is removed before the refurbishment is commenced.

(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \([x]\):
   (b) for any other person, to a fine not exceeding \([y]\).
   Compare: Model Work Health and Safety Regulations 2011 (Aust) r 457

Part 2
Asbestos removal

31 Duty to ensure asbestos removalist is licensed

(1) A PCBU who commissions the removal of asbestos must ensure that the asbestos removal work is carried out by a licensed asbestos removalist who is licensed to carry out the work.

(2) Subclause (1) does not apply if the asbestos to be removed is,—
   (a) cumulatively over the whole course of the removal project for the site, 10 m² or less of non-friable asbestos or ACD associated with the removal of that amount of non-friable asbestos; or
   (b) ACD that is not associated with the removal of friable or non-friable asbestos and is only a minor contamination.

(3) If subclause (2) applies, the PCBU that commissions the asbestos removal work must ensure that the work is carried out by a competent person who has been trained in accordance with regulation 18.
Part 2 r 32

Health and Safety at Work (Asbestos) Regulations 2015

(4) A PCBU who contravenes subclause (1) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 458

32 Nominated asbestos removal supervisor must be present or readily available

(1) A person who holds an asbestos removal licence must ensure that asbestos removal work authorised by the licence is supervised by a supervisor who has been nominated to WorkSafe by the licence holder.

(2) In this regulation, supervised means,—
(a) for Class A asbestos removal work, that the supervisor is present at the asbestos removal area whenever the asbestos removal work is being carried out; and
(b) for Class B asbestos removal work, that the supervisor is readily available to a worker carrying out asbestos removal work whenever the work is being carried out.

(3) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) rr 459, 529

33 Asbestos removal worker must be trained

(1) A licensed asbestos removalist must not direct or allow a worker to carry out licensed asbestos removal work unless the removalist is satisfied that the worker holds a certificate in relation to a training course specified by WorkSafe for asbestos removal that is relevant to the class of licensed asbestos removal work to be carried out by the worker.

(2) A licensed asbestos removalist must provide appropriate training to a worker who carries out licensed asbestos removal work at a workplace to ensure that the work is carried out in accordance with the asbestos removal control plan for the workplace.
(3) In this regulation, **appropriate training** means training designed specifically—
(a) for the workplace where the licensed asbestos removal work is carried out; and
(b) for the work to be carried out at the workplace.

(4) A person who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 460

34 **Licensed asbestos removalist must keep training records**

(1) A licensed asbestos removalist must, in relation to each worker engaged by the removalist to carry out licensed asbestos removal work, keep a training record—
(a) while the worker is carrying out licensed asbestos removal work; and
(b) for 5 years after the day on which the worker ceases carrying out licensed asbestos removal work for the removalist.

(2) The licensed asbestos removalist must ensure that the training record is readily accessible at the asbestos removal area and available for inspection under the Act.

(3) In this regulation, **training record** means a written record of the training undertaken by the worker that is relevant to asbestos removal, including details of the training provider and the dates on which the training took place.

(4) A person who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [a]:
(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 461

35 **Duty to give information about health risks of licensed asbestos removal work**

(1) A licensed asbestos removalist must give the following information to a person likely to be engaged to carry out licensed
36 **Asbestos removalist must obtain register**

(1) A licensed asbestos removalist must obtain a copy of the asbestos register for a workplace before the removalist carries out asbestos removal work at the workplace.

(2) Subclause (1) does not apply if the asbestos removal work is to be carried out at a home.

(3) A person who contravenes subclause (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [x];

(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 463

37 **Asbestos removal control plan**

(1) A licensed asbestos removalist must prepare an asbestos removal control plan for any licensed asbestos removal work the removalist is commissioned to undertake.

(2) An asbestos removal control plan must include—

(a) details of how the asbestos removal will be carried out, including the method to be used and the tools, equipment, and personal protective equipment to be used; and

(b) details of the asbestos to be removed, including the location, type, and condition of the asbestos.

(3) The licensed asbestos removalist must give a copy of the asbestos removal control plan to the person who commissioned the licensed asbestos removal work.
(4) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \[x\];
   (b) for any other person, to a fine not exceeding \[y\].

(5) A person who contravenes subclause (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \[m\];
   (b) for any other person, to a fine not exceeding \[n\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 464

38 Asbestos removal control plan to be kept and available

(1) Subject to subclause (2), a licensed asbestos removalist must ensure that a copy of the asbestos removal control plan prepared under regulation 37 is kept until the asbestos removal work to which it relates is completed.

(2) If a notifiable incident occurs in connection with the asbestos removal work to which the asbestos removal control plan relates, the licensed asbestos removalist must keep the asbestos removal control plan for at least 5 years after the incident occurs.

(3) The licensed asbestos removalist must ensure that, for the period for which the asbestos removal control plan must be kept under this regulation, a copy is—
   (a) readily accessible to—
      (i) a PCBU at the workplace; and
      (ii) the workers at the workplace, or a representative of the workers; and
      (iii) if the asbestos removal work is to be carried out in a home, the occupants of the home; and
   (b) available for inspection under the Act.

(4) A person who contravenes subclause (1), (2), or (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \[m\];
   (b) for any other person, to a fine not exceeding \[n\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 465
WorkSafe must be notified of asbestos removal

(1) A licensed asbestos removalist must give written notice to WorkSafe at least 5 days before the removalist commences licensed asbestos removal work.

(2) Despite subclause (1), licensed asbestos removal work may be commenced immediately if there is—
   (a) a sudden and unexpected event, including a failure of equipment, that may cause persons to be exposed to respirable asbestos fibres; or
   (b) an unexpected breakdown of an essential service that requires immediate rectification to enable the service to continue.

(3) If the asbestos must be removed immediately, the licensed asbestos removalist must give notice to WorkSafe—
   (a) immediately by telephone; and
   (b) in writing within 24 hours after notice is given under paragraph (a).

(4) A notice under subclause (1) or (3) must include—
   (a) the following in relation to the licensed asbestos removalist:
      (i) name:
      (ii) licence number:
      (iii) business contact details:
   (b) the name and business contact details of the supervisor of the licensed asbestos removal work:
   (c) the name of the competent person or licensed asbestos assessor engaged to carry out a clearance inspection and issue a clearance certificate for the work:
   (d) the name and contact details of the person for whom the work is to be carried out:
   (e) the following in relation to the workplace where the asbestos is to be removed:
      (i) the name, including the registered business or company name, of the PCBU with management or control of the workplace:
      (ii) the address and, if the workplace is large, the specific location of the asbestos removal:
      (iii) the kind of workplace:
   (f) the date of the notice:
(g) the date when the asbestos removal work is to commence and the estimated duration of the work:

(h) whether the asbestos to be removed is friable or non-friable:

(i) if the asbestos to be removed is friable, how the area of removal will be enclosed:

(j) the estimated quantity of asbestos to be removed:

(k) the number of workers who are to carry out the asbestos removal work:

(l) for each worker who is to carry out asbestos removal work, details of the worker’s competency to carry out asbestos removal work.

(5) A person who contravenes subclause (1) or (3) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [m];

(b) for any other person, to a fine not exceeding [n].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 466

40 Licensed removalist must inform certain persons about intended asbestos removal work

(1) This regulation applies if a licensed asbestos removalist is to carry out licensed asbestos removal work at a workplace.

(2) The licensed asbestos removalist must, before commencing the licensed asbestos removal work, inform the PCBU with management or control of the workplace—

(a) that licensed asbestos removal work is to be carried out at the workplace; and

(b) when the work is to commence.

(3) If the workplace is a home, the licensed asbestos removalist must, before commencing the licensed asbestos removal work and so far as is reasonably practicable, inform the following persons that asbestos removal work is to be carried out at the workplace and when the work is to commence:

(a) the person who commissioned the asbestos removal work:

(b) a PCBU at the workplace:

(c) the occupier of the home:

(d) the owner of the home:
(e) anyone occupying premises in the immediate vicinity of the workplace.

(4) A person who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 467

41 PCBU with management or control of a workplace must inform certain persons about asbestos removal work

(1) This regulation applies if the PCBU with management or control of a workplace is informed that asbestos removal work is to be carried out at the workplace.

(2) The PCBU must ensure that the following persons are informed that asbestos removal work is to be carried out at the workplace and when the work is to commence, before the work commences:
(a) the PCBU’s workers and any other persons at the workplace:
(b) the person who commissioned the asbestos removal work.

(3) The PCBU must take all reasonable steps to ensure that the following persons are informed that asbestos removal work is to be carried out at the workplace and when the work is to commence, before the work commences:
(a) anyone conducting a business or an undertaking at, or in the immediate vicinity of, the workplace:
(b) anyone occupying premises in the immediate vicinity of the workplace.

(4) A PCBU who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 468

42 Signage and barricades for asbestos removal work

(1) An asbestos removalist must ensure that—
(a) signs alerting persons to the presence of asbestos are placed to indicate where the asbestos removal work is being carried out; and
(b) barricades are erected to delineate the asbestos removal area.

(2) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x];
   (b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 469

43 Limiting access to asbestos removal area

(1) This regulation applies to—
   (a) a PCBU at a workplace who commissions a person to carry out licensed asbestos removal work at the workplace; and
   (b) a PCBU with management or control of a workplace who is aware that licensed asbestos removal work is being carried out at the workplace.

(2) Subject to subclause (4), the PCBU must ensure, so far as is reasonably practicable, that no one other than the following has access to an asbestos removal area:
   (a) workers engaged in the asbestos removal work:
   (b) other persons associated with the asbestos removal work:
   (c) anyone allowed under these regulations or another enactment to be in the asbestos removal area.

(3) The PCBU may refuse to allow access to an asbestos removal area at the workplace to anyone who does not comply with—
   (a) a control measure implemented for the workplace in relation to asbestos; or
   (b) a direction of the licensed asbestos removalist.

(4) A person referred to in subclause (2)(a), (b) or (c) has access to an asbestos removal area subject to any direction of the licensed asbestos removalist.

(5) If a person referred to in subclause (2)(a), (b) or (c) has access to an asbestos removal area, the person must comply with any direction of the licensed asbestos removalist.
(6) A person who contravenes subclause (2) or (5) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[x\]:
(b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 470

44 Decontamination facilities

(1) An asbestos removalist must ensure that facilities are available to decontaminate the following:
(a) the asbestos removal area:
(b) any plant used in the asbestos removal area:
(c) workers carrying out asbestos removal work:
(d) other persons who have access to the asbestos removal area under regulation 43(2)(b).

(2) An asbestos removalist must ensure that nothing that is likely to be contaminated with asbestos is removed from the asbestos removal area unless the thing—
(a) is decontaminated before being removed; or
(b) is sealed in a container, and the exterior of the container is, before the container is removed,—
   (i) decontaminated; and
   (ii) labelled with a prescribed label.

(3) A person who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[x\]:
(b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 471

45 Disposing of asbestos waste and contaminated personal protective equipment

(1) Subject to subclauses (2), (3), and (4), an asbestos removalist must ensure that asbestos waste—
(a) is placed in a sealed container and labelled with a prescribed label before the waste is removed from an asbestos removal area; and
(b) is disposed of safely and regularly by depositing it in a place approved for the purpose by a territorial authority under the Resource Management Act 1991.
(2) An asbestos removalist must ensure that personal protective equipment used in asbestos removal work and contaminated with asbestos—
   (a) is placed in a sealed container and labelled with a prescribed label before being removed from an asbestos removal area; and
   (b) so far as is reasonably practicable, is disposed of on the completion of the asbestos removal work in a place approved for the purpose by a territorial authority under the Resource Management Act 1991.

(3) If it is not reasonably practicable to dispose of personal protective equipment that is clothing, the asbestos removalist must ensure that the clothing—
   (a) is laundered at a laundry equipped to launder asbestos-contaminated clothing; or
   (b) if it is not practicable to launder the clothing, is kept in the sealed container until it is reused for asbestos removal purposes.

(4) If it is not reasonably practicable to dispose of the personal protective equipment that is not clothing, the asbestos removalist must ensure that the equipment—
   (a) is decontaminated before it is removed from the asbestos removal area; or
   (b) if it is not practicable to decontaminate the equipment in the asbestos removal area, is kept in the sealed container until it is reused for asbestos removal purposes.

(5) An asbestos removalist must ensure that a sealed container referred to in subclause (2) is decontaminated before the container is removed from the asbestos removal area.

(6) A person who contravenes subclause (1), (2), (3), (4), or (5) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x];
   (b) for any other person, to a fine not exceeding [y].

46 Clearance inspection

(1) This regulation applies if a person commissions licensed asbestos removal work at a workplace.
(2) The person or, if the workplace is a home, the licensed asbestos removalist commissioned by the person must ensure that, when the licensed asbestos removal work is completed, a clearance inspection of the asbestos removal area at the workplace is carried out by,—
(a) in the case of Class A asbestos removal work, an independent licensed asbestos assessor; or
(b) in any other case, an independent competent person.

(3) In this regulation—
clearance inspection—
(a) means an inspection of an asbestos removal area after asbestos removal work has been completed to verify that the area is safe for normal use; and
(b) includes a visual inspection; and
(c) may include air monitoring

competent person means a person who has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice and who holds—
(a) a certificate in relation to a training course specified by WorkSafe for asbestos assessor work; or
(b) a tertiary qualification in occupational health and safety, occupational hygiene, science, or environmental health.

(4) A person who contravenes subclause (2) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x]:
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 473

47 Clearance certificates
(1) This regulation applies if a clearance inspection has been carried out in accordance with regulation 46.

(2) The PCBU with management or control of the workplace at which the clearance inspection was carried out must obtain from the licensed asbestos assessor or competent person a clearance certificate, in accordance with this regulation, before the asbestos removal area at the workplace is re-occupied.

(3) The licensed asbestos assessor or competent person must not issue a clearance certificate unless satisfied that—
Health and Safety at Work (Asbestos) Regulations 2015

Part 3 r 48

(a) the asbestos removal area and the area immediately surrounding it are free from visible asbestos contamination; and

(b) if the assessor or competent person undertook air monitoring as part of the clearance inspection, the monitoring shows that the respirable asbestos fibre level does not exceed 0.01 fibres/ml; and

(c) the asbestos removal area does not pose a risk to health and safety from exposure to asbestos.

(4) The clearance certificate must be in writing and must state that—

(a) the assessor or competent person found no visible asbestos residue from asbestos removal work in the area, or in the vicinity of the area, where the work was carried out; and

(b) if air monitoring was carried out by the assessor or competent person as part of the clearance inspection, the respirable asbestos fibre level does not exceed 0.01 fibres/ml; and

(c) as far as can be determined from the clearance inspection, the asbestos removal area does not pose a risk to health and safety from exposure to asbestos.

(5) A person who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [x];

(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 474

Part 3

Class A licences and related air monitoring requirements

48 Air monitoring for Class A asbestos removal work

(1) A PCBU who commissions Class A asbestos removal work at a workplace must ensure that an independent licensed asbestos assessor undertakes air monitoring of the asbestos removal area at the workplace in accordance with subclause (3).

(2) If the workplace is a home, the licensed removalist carrying out Class A asbestos removal work at the home must ensure
that an independent licensed asbestos assessor undertakes air monitoring of the asbestos removal area at the home in accordance with subclause (3).

(3) The air monitoring must be carried out—
   (a) immediately before the licensed asbestos removal work commences, unless glove bags are to be used for the removal; and
   (b) while the licensed asbestos removal work is carried out.

(4) The PCBU who commissions the licensed asbestos removal work must ensure that the results of the air monitoring are given to the following:
   (a) workers at the workplace;
   (b) representatives for workers at the workplace;
   (c) a PCBU at the workplace;
   (d) other persons at the workplace.

(5) If the workplace is a home, the licensed asbestos removalist carrying out the licensed asbestos removal work at the home must ensure that the results of the air monitoring are given to the following:
   (a) the PCBU who commissioned the asbestos removal work;
   (b) workers at the workplace;
   (c) representatives for workers at the workplace;
   (d) a PCBU at the workplace;
   (e) the occupier of the home;
   (f) the owner of the home;
   (g) other persons at the workplace.

(6) An independent licensed asbestos assessor who undertakes air monitoring for the purposes of this regulation must use the membrane filter method for the air monitoring.

(7) A person who contravenes subclause (1), (2), (4), (5), or (6) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x]:
   (b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 475
49  Action if respirable asbestos fibre level too high

(1) The licensed removalist carrying out Class A asbestos removal work at a workplace must,—

(a) if respirable asbestos fibre levels recorded at the asbestos removal area are at or above 0.01 fibres/ml but do not exceed 0.02 fibres/ml, immediately—

(i) investigate the cause of the respirable asbestos fibre level; and

(ii) implement controls to prevent exposure of anyone else to asbestos; and

(iii) prevent the further release of respirable asbestos fibres; and

(b) if respirable asbestos fibre levels recorded at the asbestos removal area exceed 0.02 fibres/ml, immediately—

(i) order the asbestos removal work to stop; and

(ii) notify WorkSafe; and

(iii) investigate the cause of the respirable asbestos fibre level; and

(iv) implement controls to prevent exposure of anyone to asbestos; and

(v) prevent the further release of respirable asbestos fibre.

(2) If the licensed removalist stops asbestos Class A asbestos removal work because the recorded respirable asbestos fibre level exceeds 0.02 fibres/ml, the removalist must ensure that the asbestos removal work does not resume until air monitoring shows that the recorded respirable asbestos fibre level is below 0.01 fibres/ml.

(3) A person who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [x]:

(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 476

50  Removing friable asbestos

(1) A licensed asbestos removalist removing friable asbestos must ensure, so far as is reasonably practicable, the following:
(a) the asbestos removal area is enclosed to prevent the release of respirable asbestos fibres:

(b) subject to subclause (3), negative pressure is used:

(c) the wet method of asbestos removal is used:

(d) subject to subclause (3), the asbestos removal work does not commence until the air monitoring is commenced by a licensed asbestos assessor:

(e) air monitoring is undertaken during the asbestos removal work, at times decided by the independent licensed asbestos assessor undertaking the monitoring:

(f) any glove bag used to enclose the asbestos removal area is dismantled and disposed of safely.

(2) A licensed asbestos removalist must ensure that any enclosure used in removing friable asbestos is tested for leaks.

(3) Subclauses (1)(b) and (1)(d) do not apply if glove bags are used in the Class A asbestos removal work.

(4) The licensed removalist must not dismantle an enclosure for a friable asbestos removal area until the removalist receives results of air monitoring showing that the recorded respirable asbestos fibre level within the enclosure is below 0.01 fibres/ml, from,—

(a) if the friable asbestos is removed from a home, the licensed asbestos assessor who undertook the air monitoring; or

(b) in any other case, the PCBU who commissioned the Class A asbestos removal work.

(5) The licensed removalist must ensure that an enclosure for a friable asbestos removal area is dismantled in a way that, so far as is reasonably practicable, eliminates the release of respirable asbestos fibre.

(6) The PCBU who commissioned the removal of the friable asbestos must obtain a clearance certificate from a licensed asbestos assessor after the enclosure for the friable asbestos removal area has been dismantled.

(7) A person who contravenes subclause (1), (2), (4), (5), or (6) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding \[x\]:

(b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 477

Consultation draft
Part 4
Asbestos-related work

51 Application of Part 4
This Part applies in relation to asbestos-related work.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 478

52 Uncertainty as to presence of asbestos
(1) If a PCBU is uncertain whether asbestos or ACM is present at a workplace, the PCBU must ensure that analysis of a sample is undertaken to determine if asbestos or ACM is present.

(2) For the purposes of subclause (1), the PCBU must ensure that the sample is analysed only by—
(a) an IANZ-accredited laboratory accredited for the relevant test method; or
(b) a laboratory approved by WorkSafe in accordance with guidelines published by WorkSafe; or
(c) a laboratory operated by WorkSafe.

(3) Subclause (1) does not apply—
(a) if the PCBU assumes that asbestos is present;
(b) in relation to soil at the workplace unless there is reasonable cause for the PCBU to suspect that asbestos-contaminated soil is present.

(4) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding \[x\];
(b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 479

53 Duty to give information about health risks of asbestos-related work
(1) A PCBU must give the following information to a person likely to be engaged to carry out asbestos-related work for the business or undertaking before the person is engaged to carry out the work:
(a) the health risks and health effects associated with exposure to asbestos;
(b) the need for, and details of, health monitoring of a worker carrying out asbestos-related work.
(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x];
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 480

54 Asbestos-related work to be in separate area
(1) A PCBU that carries out asbestos-related work must ensure that—
(a) the asbestos-related work area is separated from other work areas at the workplace; and
(b) signs alerting persons to the presence of asbestos are placed to indicate where the asbestos-related work is being carried out; and
(c) barricades are erected to delineate the asbestos-related work area.

(2) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x];
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 481

55 Air monitoring
(1) A PCBU at a workplace must ensure that a competent person carries out air monitoring of the work area where asbestos-related work is being carried out if there is uncertainty as to whether the airborne contamination standard for asbestos is likely to be exceeded.

(2) If the competent person determines that the airborne contamination standard for asbestos has been exceeded at any time in a work area, the PCBU must, so far as is reasonably practicable,—
(a) determine which workers and other persons were in the work area during that time; and
(b) warn those workers about possible exposure to respirable asbestos fibres; and
(c) warn the other persons about possible exposure to respirable asbestos fibres.
(3) The PCBU must ensure that information about exposure to respirable asbestos fibres, including the determination made by the competent person and the results of the air monitoring, is readily accessible to the workers and other persons referred to in subclause (2).

(4) A PCBU who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x];
   (b) for any other person, to a fine not exceeding [y].

(5) A PCBU who contravenes subclause (3) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [m];
   (b) for any other person, to a fine not exceeding [n].

56 Decontamination facilities

(1) A PCBU for which asbestos-related work is carried out must ensure that facilities are available to decontaminate the following:
   (a) the asbestos-related work area;
   (b) any plant used in the asbestos-related work area;
   (c) workers carrying out the asbestos-related work.

(2) The PCBU must ensure that nothing that is likely to be contaminated with asbestos is removed from the asbestos-related work area unless the thing, before being removed,—
   (a) is decontaminated; or
   (b) is sealed in a container, and the exterior of the container is—
       (i) decontaminated; and
       (ii) labelled with a prescribed label.

(3) A PCBU who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x];
   (b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 482

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 483
Disposing of asbestos waste and contaminated personal protective equipment

(1) Subject to subclauses (2), (3), and (4), a PCBU for which asbestos-related work is carried out must ensure that asbestos waste—

(a) is placed in a sealed container and labelled with a prescribed label before the waste is removed from an asbestos-related work area; and

(b) is disposed of safely and regularly by depositing it in a place approved for the purpose by a territorial authority under the Resource Management Act 1991.

(2) The PCBU must ensure that personal protective equipment used in asbestos-related work and contaminated with asbestos—

(a) is placed in a sealed container and labelled with a prescribed label before being removed from an asbestos-related work area; and

(b) so far as is reasonably practicable, is disposed of on the completion of the asbestos-related work in a place approved for the purpose by a territorial authority under the Resource Management Act 1991.

(3) If it is not reasonably practicable to dispose of personal protective equipment that is clothing, the PCBU must ensure that the clothing—

(a) is laundered at a laundry equipped to launder asbestos-contaminated clothing; or

(b) if it is not practicable to launder the clothing, is kept in the sealed container until it is reused for the purposes of asbestos-related work.

(4) If it is not reasonably practicable to dispose of the personal protective equipment that is not clothing, the PCBU must ensure that the equipment—

(a) is decontaminated before it is removed from the asbestos-related work area; or

(b) if it is not practicable to decontaminate the equipment in the asbestos-related work area, is kept in the sealed container until it is reused for the purposes of asbestos-related work.
(5) A PCBU must ensure that a sealed container referred to in subclause (2) is decontaminated before the container is removed from the asbestos-related work area.

(6) A PCBU who contravenes subclause (1), (2), (3), (4), or (5) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x]:
   (b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 484

Part 5
Licensing of asbestos removalists and asbestos assessors

Subpart 1—Asbestos removalists—requirement to be licensed

58 Requirement to hold Class A asbestos removal licence

(1) A person must not carry out the removal of the following at a workplace unless the person, or the person on whose behalf the work is carried out, holds a Class A asbestos removal licence:
   (a) friable asbestos:
   (b) except as provided in regulation 59, ACD.

(2) A PCBU must not direct or allow a worker to carry out the removal of the following unless the person holds a Class A asbestos removal licence:
   (a) friable asbestos:
   (b) except as provided in regulation 59, ACD.

(3) A person who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding [x]:
   (b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 485

59 Exception to requirement to hold Class A asbestos removal licence

A Class A asbestos removal licence is not required for the removal of ACD that—
   (a) is associated with the removal of non-friable asbestos;
   or
60 Requirement to hold Class B asbestos removal licence

(1) A person must not carry out the removal of the following at a workplace unless the person, or the person on whose behalf the work is carried out, holds a Class B asbestos removal licence or a Class A asbestos removal licence:
   (a) more than 10 m² (cumulatively over the whole course of the removal project for the site) of non-friable asbestos or ACM:
   (b) ACD associated with the removal of more than 10 m² (cumulatively over the whole course of the removal project for the site) of non-friable asbestos or ACM.

(2) A PCBU must not direct or allow a worker to carry out the removal of the following unless the person holds a Class B asbestos removal licence or a Class A asbestos removal licence:
   (a) more than 10 m² (cumulatively over the whole course of the removal project for the site) of non-friable asbestos or ACM:
   (b) ACD associated with the removal of more than 10 m² (cumulatively over the whole course of the removal project for the site) of non-friable asbestos or ACM.

(3) A person who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
   (a) for an individual, to a fine not exceeding \[x\]:
   (b) for any other person, to a fine not exceeding \[y\].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 487

61 Recognition of asbestos removal licences from other jurisdictions

(1) In this subpart, a reference to an asbestos removal licence includes a reference to an equivalent licence—
   (a) that is granted under a corresponding law; and
   (b) that is being used in accordance with the terms and conditions under which it was granted.
(2) Subclause (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 488

Subpart 2—Asbestos assessors—requirement to be licensed

62 Requirement to hold asbestos assessor licence
(1) A person must not carry out the following at a workplace unless the person holds an asbestos assessor licence:
(a) air monitoring during Class A asbestos removal work;
(b) clearance inspections for Class A asbestos removal work;
(c) issuing of clearance certificates in relation to Class A asbestos removal work.
(2) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [x];
(b) for any other person, to a fine not exceeding [y].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 489

63 Recognition of asbestos assessor licences in other jurisdictions
(1) In this subpart, a reference to an asbestos assessor licence includes a reference to an equivalent licence—
(a) that is granted under a corresponding law; and
(b) that is being used in accordance with the terms and conditions under which it was granted.
(2) Subclause (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 490

Subpart 3—Licensing process

64 Who may apply for licence
(1) Only a person who conducts, or proposes to conduct, a business or an undertaking may apply for an asbestos removal licence.
(2) Only an individual who holds the qualifications set out in regulation 68 may apply for an asbestos assessor licence.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 491

65 Application for asbestos removal licence or asbestos assessor licence

(1) An application for an asbestos removal licence or asbestos assessor licence must be made in the manner and form required by WorkSafe.

(2) The application must include the following information:

(a) the name and address of the applicant:

(b) if required by WorkSafe in relation to an applicant who is an individual, a photograph of the applicant in the form required by WorkSafe:

(c) any other evidence of the applicant’s identity required by WorkSafe:

(d) the class of licence to which the application relates:

(e) if, in the case of an asbestos removal licence, the applicant conducts the business or undertaking under a business name, that business name and a certificate or other written evidence of the registration of the business name:

(f) a declaration that the applicant does not hold an equivalent licence under a corresponding law:

(g) if the applicant is an individual,—

(i) a declaration as to whether the applicant has ever been convicted or found guilty of any offence under the Act or these regulations or under any corresponding law; and

(ii) details of any conviction or finding of guilt declared under subparagraph (i); and

(iii) a declaration as to whether the applicant has been convicted or found guilty of any offence in relation to the unlawful disposal of hazardous waste under [a relevant environment protection law]; and

(iv) details of any conviction or finding of guilt declared under subparagraph (iii); and
Health and Safety at Work (Asbestos) Regulations 2015

Part 5 r 66

(v) a declaration as to whether the applicant has ever entered into an enforceable undertaking under the Act or under any corresponding law; and

(vi) details of any enforceable undertaking declared under subparagraph (v); and

(vii) if the applicant has previously been refused an equivalent licence under a corresponding law, a declaration giving details of that refusal; and

(viii) if the applicant has previously held an equivalent licence under a corresponding law, a declaration—

(A) describing any condition imposed on that licence; and

(B) stating whether that licence had been suspended or cancelled and, if so, whether the applicant had been disqualified from applying for any licence; and

(C) giving details of any suspension, cancellation, or disqualification:

(h) if the applicant is a body corporate, the information referred to in paragraph (g) in relation to—

(i) the body corporate; and

(ii) each officer of the body corporate:

(i) in the case of an application for an asbestos removal licence, the additional information referred to in regulation 66 or 67, as applicable:

(j) in the case of an asbestos assessor licence, the additional information referred to in regulation 68.

(3) The application must be accompanied by the relevant fee prescribed in Schedule 1.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 492

66 Content of application: Class A asbestos removal licence

(1) For the purposes of regulation 65(2)(i), an application for a Class A asbestos removal licence must include the following:

(a) the names of 1 or more competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence:
(b) evidence, as required by WorkSafe, that each named supervisor is at least 18 years of age:
(c) a copy of a certificate issued to each named supervisor for the relevant course for the supervision of asbestos removal work:
(d) evidence that each named supervisor has at least 3 years of relevant industry experience:
(e) evidence that the applicant has a certified safety management system in place.

(2) If the applicant is an individual who proposes to supervise the carrying out of the Class A asbestos removal work, the statement and information referred to in subclause (1)(b), (c), and (d) must relate to the applicant.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 493

67 Content of application: Class B asbestos removal licence

(1) For the purposes of regulation 65(2)(i), an application for a Class B asbestos removal licence must include the following:
(a) the name of 1 or more competent persons who have been engaged by the applicant to supervise the asbestos removal work to be authorised by the licence:
(b) evidence, as required by WorkSafe, that each named supervisor is at least 18 years of age:
(c) a copy of a certificate issued to each named supervisor for the relevant course for the supervision of asbestos removal work:
(d) evidence that each named supervisor has at least 1 year of relevant industry experience.

(2) If the applicant is an individual who proposes to supervise the carrying out of the Class B asbestos removal work, the statement and information referred to in subclause (1)(b), (c), and (d) must relate to the applicant.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 494

68 Content of application: asbestos assessor licence

For the purposes of regulation 65(2)(j), an application for an asbestos assessor licence mustinclude—
Health and Safety at Work (Asbestos) Regulations 2015

Part 5 r 70

(a) evidence that the applicant has acquired through training or experience the knowledge and skills of relevant asbestos removal industry practice; and
(b) either—
   (i) a copy of a certificate held by the applicant in relation to the relevant course for asbestos assessor work; or
   (ii) evidence that the applicant holds a tertiary qualification in occupational health and safety, industrial hygiene, science, building construction, or environmental health.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 495

69 Additional information

(1) If an application for a licence does not contain sufficient information to enable WorkSafe to make a decision about whether to grant the licence, WorkSafe may ask the applicant to provide additional information.

(2) A request for additional information must—
   (a) specify the date (not being less than 28 days after the request) by which the additional information is to be given; and
   (b) be confirmed in writing.

(3) If an applicant does not provide the additional information by the date specified, the application is to be taken to have been withdrawn.

(4) WorkSafe may make more than 1 request for additional information.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 496

70 Decision on application

(1) Subject to subclause (3), WorkSafe must grant an asbestos removal licence or asbestos assessor licence if satisfied about—
   (a) the matters referred to in subclause (2); and
   (b) the additional matters referred to in regulation 71 or 72, as applicable.

(2) WorkSafe must be satisfied about the following:
(a) the application has been made in accordance with these regulations:
(b) the applicant does not hold an equivalent licence under a corresponding law (unless that licence is due for renewal):
(c) if the applicant is an individual, the applicant—
   (i) resides in New Zealand; or
   (ii) resides outside New Zealand and circumstances exist that justify the grant of the licence:
(d) if the applicant is a body corporate, the applicant’s registered office—
   (i) is located in New Zealand; or
   (ii) is located outside New Zealand and circumstances exist that justify the grant of the licence:
(e) the applicant is able to ensure that the work or other activities to which the licence relates are carried out safely and competently:
(f) the applicant is able to ensure compliance with any conditions that will apply to the licence.

(3) WorkSafe must refuse to grant a licence if satisfied that—
(a) the applicant is disqualified under a corresponding law from holding an equivalent licence; or
(b) the applicant, in making the application, has—
   (i) given information that is false or misleading in a material particular; or
   (ii) failed to give any material information that should have been given.

(4) If WorkSafe decides to grant the licence, it must notify the applicant within 14 days after making the decision.

(5) If WorkSafe does not make a decision within 120 days after receiving the application or the additional information requested under regulation 69, WorkSafe is taken to have refused to grant the licence applied for.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 497

71 Class A asbestos removal licence: WorkSafe to be satisfied about additional matters
For the purposes of regulation 70(1)(b), in relation to a Class A asbestos removal licence, WorkSafe must be satisfied that—
(a) each supervisor named by the applicant—
   (i) is at least 18 years of age: and
   (ii) holds a certificate for—
       (A) the relevant course for the supervision of asbestos removal work; and
       (B) the relevant course for the Class A asbestos removal work; and
   (iii) has at least 3 years of relevant industry experience; and
(b) the applicant has a certified safety management system in place.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 498

72 Class B asbestos removal licence: WorkSafe to be satisfied about additional matters
For the purposes of regulation 70(1)(b), in relation to a Class B asbestos removal licence, WorkSafe must be satisfied that each supervisor named by the applicant—
(a) is at least 18 years of age; and
(b) holds a certificate for—
   (i) the relevant course for the supervision of asbestos removal work; and
   (ii) the relevant course for the Class B asbestos removal work; and
(c) has at least 1 year of relevant industry experience.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 499

73 Matters to be taken into account in considering licence application
(1) For the purposes of regulation 70(2)(e) and (f), WorkSafe must have regard to all relevant matters, including the following:
(a) any offence under the Act or these regulations or other regulations made under the Act or under a corresponding law of which the applicant has been convicted or found guilty:
(b) any offence in relation to the unlawful disposal of hazardous waste under [a relevant environment protection law] of which the applicant has been convicted or found guilty:
(c) any enforceable undertaking the applicant has entered into under the Act or a corresponding law:
(d) in relation to any equivalent licence applied for or held by the applicant under the Act or these regulations or other regulations made under the Act or under a corresponding law,—
   (i) any refusal to grant the licence; and
   (ii) any condition imposed on the licence, if granted; and
   (iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence:
(e) the record of the applicant in relation to any matters arising under the Act or these regulations or under a corresponding law.

(2) For the purposes of regulation 70(2)(e) and (f), if the applicant is a body corporate, WorkSafe must have regard to all relevant matters, including the matters referred to in subclause (1), in relation to—
   (a) the body corporate; and
   (b) each officer of the body corporate.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 500

74 Refusal to grant licence: process

(1) If WorkSafe proposes to refuse to grant a licence, WorkSafe must give the applicant a written notice—
   (a) informing the applicant of the reasons for the proposed refusal; and
   (b) advising the applicant that the applicant may, by a specified date (being not less than 28 days after WorkSafe gives the notice), make a submission to WorkSafe in relation to the proposed refusal.

(2) After the date specified in a notice under subclause (1), WorkSafe must,—
   (a) if the applicant has made a submission in relation to the proposed refusal to grant the licence, consider that submission; and
(b) whether or not the applicant has made a submission, decide whether to grant or refuse to grant the licence; and
(c) within 14 days after making the decision, give the applicant written notice of the decision, including the reasons for the decision.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 501

75 Conditions of licence
(1) WorkSafe may impose any conditions it considers appropriate on an asbestos removal licence or asbestos assessor licence.
(2) Without limiting subclause (1), WorkSafe may impose conditions in relation to 1 or more of the following:
   (a) control measures that must be implemented in relation to the carrying out of work or activities under the licence:
   (b) the recording or keeping of information:
   (c) requiring the licence holder, or a supervisor nominated by the licence holder, to undergo retraining or reassessment during the term of the licence:
   (d) the provision of information to WorkSafe:
   (e) the nature of work or activities authorised by the licence:
   (f) the circumstances in which work or activities authorised by the licence may be carried out.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 502

76 Duration of licence
Subject to this Part, an asbestos removal licence or asbestos assessor licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 503

77 Licence document
(1) If WorkSafe grants an asbestos removal licence or asbestos assessor licence, WorkSafe must issue to the applicant a licence document in the form determined by WorkSafe.
(2) The licence document must include the following:
   (a) the name of the licence holder:
Part 5 r 78
Health and Safety at Work (Asbestos) Regulations 2015

(b) if the licence holder conducts the business or undertaking under a business name, that business name:

(c) in the case of an asbestos removal licence, the class of asbestos removal licence and a description of the work within the scope of the licence:

(d) any conditions imposed on the licence by WorkSafe:

(e) the date on which the licence was granted:

(f) the expiry date of the licence.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 504

78 Licence document to be available

(1) A licence holder must keep the licence document available for inspection under the Act.

(2) Subclause (1) does not apply if the licence document is not in the licence holder’s possession because—

(a) it has been returned to WorkSafe under regulation 85; or

(b) the licence holder has applied for, but has not received, a replacement licence document under regulation 86.

(3) A person who contravenes subclause (1) commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding [a]:

(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 505

Subpart 4—Alteration of licence and related matters

79 Changes to information

(1) The holder of an asbestos removal licence or asbestos assessor licence must give WorkSafe written notice of any change to any material particular in any information given at any time by the licence holder to WorkSafe in relation to the licence within 14 days after the licence holder becomes aware of the change.

(2) Subclause (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.
(3) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [a]:
(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 506

80 Change to nominated supervisor
(1) If there is a change in relation to a supervisor nominated to WorkSafe by the holder of an asbestos removal licence (other than a licence holder who is an individual), the licence holder must,—
(a) if the change is to remove a supervisor, within 14 days after the change, ask WorkSafe to amend the licence under regulation 82 to make that change; and
(b) if the change is to add a supervisor, pay the relevant fee prescribed in Schedule 1 and give WorkSafe the information about the supervisor referred to in regulation 71 or 72.

(2) If the change referred to in subclause (1) is to add a supervisor, that supervisor is not a nominated supervisor for the purposes of these regulations until WorkSafe has approved the nomination.

(3) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [a]:
(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 507

81 Amendment imposed by WorkSafe
(1) WorkSafe may, on its own initiative, amend an asbestos removal licence or asbestos assessor licence, including by amending the licence to—
(a) vary or delete a condition of the licence; or
(b) impose a new condition on the licence.

(2) If WorkSafe proposes to amend a licence, WorkSafe must give the licence holder written notice that—
(a) sets out the proposed amendment and the reasons for it; and
Part 5 r 82

Health and Safety at Work (Asbestos)
Regulations 2015

(b) advises the licence holder that the licence holder may, by a specified date (being not less than 28 days after giving the notice), make a submission to WorkSafe in relation to the proposed amendment.

(3) After the date specified in a notice under subclause (2), WorkSafe must,—

(a) if the licence holder has made a submission in relation to the proposed amendment, consider that submission; and

(b) whether or not the licence holder has made a submission, decide—
   (i) to make the proposed amendment; or
   (ii) not to make any amendment; or
   (iii) to make a different amendment that results from consideration of any submission made by the licence holder; and

(c) within 14 days after making that decision, give the licence holder written notice that—
   (i) sets out the amendment, if any, or states that no amendment is to be made; and
   (ii) if a submission was made in relation to the proposed amendment, sets out WorkSafe’s reasons for making the amendment; and
   (iii) specifies the date (being not less than 28 days after WorkSafe gives the notice) on which the amendment, if any, takes effect.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 508

82 Amendment on application by licence holder

(1) WorkSafe, on the application of the licence holder (accompanied by the relevant fee prescribed in Schedule 1, if any), may amend an asbestos removal licence or asbestos assessor licence, including by amending the licence to vary or delete a condition of the licence.

(2) If WorkSafe proposes to refuse to amend the licence, WorkSafe must give the licence holder a written notice—

(a) informing the licence holder of the proposed refusal to amend the licence and the reasons for the proposed refusal; and

Consultation draft
(b) advising the licence holder that the licence holder may, by a specified date (being not less than 28 days after WorkSafe gives the notice), make a submission to WorkSafe in relation to the proposed refusal.

(3) After the date specified in a notice under subclause (2), WorkSafe must,—
(a) if the licence holder has made a submission in relation to the proposed refusal, consider that submission; and
(b) whether or not the licence holder has made a submission, decide—
(i) to make the amendment applied for; or
(ii) not to make any amendment; or
(iii) to make a different amendment that results from consideration of any submission made by the licence holder; and
(c) within 14 days after making that decision, give the licence holder written notice of the decision in accordance with this regulation.

(4) If WorkSafe makes the amendment applied for, the notice under subclause (3)(c) must specify the date (being not less than 28 days after WorkSafe gives the notice) on which the amendment takes effect.

(5) If WorkSafe refuses to make the amendment applied for or makes a different amendment, the notice under subclause (3)(c) must,—
(a) if a submission was made in relation to the proposed refusal of the amendment applied for, set out the reasons for WorkSafe’s decision; and
(b) if WorkSafe makes a different amendment,—
(i) set out the amendment; and
(ii) specify the date (being not less than 28 days after WorkSafe gives the notice) on which the amendment takes effect.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 509

83 Minor corrections to licence
WorkSafe may make minor amendments to a licence, including an amendment—
(a) to correct an obvious error; or
(b) to change an address; or
(c) that does not impose a significant burden on the licence holder.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 510

84 WorkSafe to give amended licence to holder
If WorkSafe amends an asbestos removal licence or asbestos assessor licence and considers that the licence document requires amendment, WorkSafe must give the licence holder an amended licence document within 14 days after making the decision to amend the licence.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 511

85 Licence holder to return licence
(1) The holder of an asbestos removal licence or asbestos assessor licence that has been amended must return the licence document to WorkSafe for amendment at the written request of WorkSafe and within the time specified in the request.

(2) A person who contravenes subclause (1) commits an offence and is liable on conviction,—
(a) for an individual, to a fine not exceeding [a]:
(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 512

86 Replacement licence document
(1) The holder of an asbestos removal licence or an asbestos assessor licence must give written notice to WorkSafe as soon as practicable if the licence document is lost, stolen, or destroyed.

(2) If a licence document is lost, stolen, or destroyed, the licence holder may apply to WorkSafe for a replacement document.

(3) An application for a replacement licence document must be made in the manner and form required by WorkSafe.

(4) The application must—
(a) include a declaration describing the circumstances in which the original document was lost, stolen, or destroyed; and
(b) be accompanied by the relevant fee prescribed in Schedule 1.
(5) WorkSafe must issue a replacement licence document if satisfied that the original document was lost, stolen, or destroyed.

(6) If WorkSafe refuses to issue a replacement licence document, it must give the licence holder written notice of that decision, including the reasons for the decision, within 14 days after making the decision.

(7) A person who contravenes subclause (1) commits an offence and is liable on conviction,—

   (a) for an individual, to a fine not exceeding [a];
   (b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 513

87 Voluntary surrender of licence

(1) A licence holder may voluntarily surrender the licence document to WorkSafe.

(2) The licence expires on the surrender of the licence document.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 514

Subpart 5—Renewal of licence

88 WorkSafe may renew licence

WorkSafe may renew an asbestos removal licence or asbestos assessor licence on application by the licence holder.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 515

89 Application for renewal

(1) An application for renewal of an asbestos removal licence or asbestos assessor licence must be made in the manner and form required by WorkSafe.

(2) The application must include the following information:

   (a) the name and address of the applicant;
   (b) if required by WorkSafe in relation to an applicant who is an individual, a photograph of the applicant in the form required by WorkSafe;
   (c) any other evidence of the applicant’s identity required by WorkSafe;
   (d) written evidence that the applicant has obtained any retraining or reassessment or taken any other action required under regulation 75:
(e) a declaration by the applicant that the applicant or a supervisor nominated by the applicant, as applicable, has maintained the competency required to carry out the work covered by the licence.

(3) The application must be accompanied by the relevant fee prescribed in Schedule 1.

(4) The application must be made before the expiry of the licence.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 516

90 Provisions relating to renewal of licence

(1) For the purposes of this subpart,—

(a) regulation 69 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and

(b) regulations 70 (except subclauses (3) and (5)), 73, and 76 apply as if a reference in those regulations to the grant of a licence were a reference to the renewal of a licence; and

(c) regulations 70(3) and (5) and 74 apply as if a reference in those regulations to a refusal to grant a licence were a reference to a refusal to renew a licence.

(2) WorkSafe must not renew an asbestos removal licence unless WorkSafe is satisfied about the matters referred to in regulation 91.

(3) WorkSafe must not renew an asbestos removal licence or asbestos assessor licence granted to a person under a corresponding law if that licence is renewed under that law.

(4) If a licence holder applies under regulation 89 for the renewal of an asbestos removal licence or asbestos assessor licence, the licence is taken to continue in force from the day it would, apart from this subclause, have expired until the licence holder is given notice of the decision on the application.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 517

91 Renewal of asbestos removal licence—WorkSafe to be satisfied about certain matters

For the purposes of regulation 90, WorkSafe must not renew an asbestos removal licence unless satisfied that—
(a) each supervisor named by the applicant—
   (i) holds a certification for the relevant course for supervision of the asbestos removal work to be authorised by the licence; and
   (ii) has appropriate experience in the asbestos removal work to be authorised by the licence; and
(b) asbestos removal work of the type authorised by the licence has been carried out on behalf of the applicant during the term of the licence.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 518

92 Status of licence during review or appeal

(1) This regulation applies if WorkSafe gives a licence holder written notice of its decision to refuse to renew the licence.

(2) If the licence holder does not apply for internal review of the decision, the licence continues to have effect until the last of the following events:
   (a) the expiry of the licence:
   (b) the end of the time for applying for an internal review.

(3) If the licence holder applies for an internal review of the decision, the licence continues to have effect until the earlier of the following events:
   (a) the licence holder withdraws the application for review:
   (b) WorkSafe makes a decision on the review.

(4) If the licence holder does not lodge an appeal against the decision on the review, the licence continues to have effect until the end of the time for lodging an appeal.

(5) If the licence holder lodges an appeal, the licence continues to have effect until the earlier of the following events:
   (a) the licence holder withdraws the appeal:
   (b) the District Court makes a decision on the appeal.

(6) The licence continues to have effect under this regulation even if its expiry date passes.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 519
Subpart 6—Suspension and cancellation of licence

93 Suspension or cancellation of licence

(1) WorkSafe may suspend or cancel an asbestos removal licence or asbestos assessor licence if satisfied about 1 or more of the following:

(a) the licence holder has failed to ensure that the work or other activities authorised by the licence are carried out safely and competently;

(b) the licence holder has failed to ensure compliance with a condition of the licence, including a condition requiring the licence holder, or a nominated supervisor of the licence holder, to undergo retraining or reassessment during the term of the licence;

(c) the licence holder, in the application for the grant or renewal of the licence or on request by WorkSafe for additional information,—

(i) gave information that was false or misleading in a material particular; or

(ii) failed to give any material information that should have been given in that application or on that request:

(d) in relation to an asbestos removal licence, the licence was granted or renewed on the basis of a certification that was obtained on the basis of the giving of false or misleading information by any person or body:

(e) in relation to a Class A asbestos removal licence, the licence holder has failed to have a certified safety management system in place.

(2) It is a ground for the suspension or cancellation of an asbestos removal licence if the licence holder does not have a qualified nominated asbestos removal supervisor.

(3) For the purposes of subclause (1)(b), a licence holder complies with a condition on the licence that requires the licence holder or a nominated supervisor of the licence holder to undergo retraining or reassessment during the term of the licence if the licence holder provides a certificate in relation to that retraining or reassessment.
(4) If WorkSafe suspends or cancels a licence, WorkSafe may disqualify the licence holder from applying for—
   (a) a further licence of the same type; or
   (b) another licence under these regulations to carry out work which requires skills that are the same as or similar to those required for the work authorised by the licence that has been suspended or cancelled.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 520

94 Matters to be taken into account in considering suspension or cancellation of licence

(1) In making a decision under regulation 93, WorkSafe must have regard to—
   (a) any submissions made by the licence holder under regulation 95; and
   (b) any advice received from a corresponding regulator.

(2) For the purposes of regulation 93(1)(a) and (b), if the licence holder is an individual, WorkSafe must have regard to all relevant matters, including the following:
   (a) any offence under the Act or these regulations or other regulations made under the Act or under a corresponding law, of which the licence holder has been convicted or found guilty:
   (b) any enforceable undertaking that the licence holder has entered into under this Act or a corresponding law:
   (c) in relation to any equivalent licence applied for or held by the licence holder under the Act or these regulations or other regulations made under the Act or under a corresponding law,—
      (i) any refusal to grant the licence; and
      (ii) any condition imposed on the licence, if granted; and
      (iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence:
   (d) the record of the licence holder in relation to any matters arising under the Act or these regulations or under a corresponding law.
For the purposes of regulation 93(1)(a) and (b), if the licence holder is a body corporate, WorkSafe must have regard to all relevant matters, including the matters referred to in subclause (2), in relation to—
(a) the body corporate; and
(b) each officer of the body corporate.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 521

95 Notice to and submissions by licence holder

Before suspending or cancelling an asbestos removal licence or asbestos assessor licence, WorkSafe must give the licence holder a written notice of the proposed suspension or cancellation and any proposed disqualification that—
(a) outlines all relevant allegations, facts, and circumstances known to WorkSafe; and
(b) advises the licence holder that the licence holder may, by a specified date (being not less than 28 days after WorkSafe gives the notice), make a submission in relation to the proposed suspension or cancellation and any proposed disqualification.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 522

96 Notice of decision

(1) WorkSafe must give the licence holder written notice of a decision under regulation 93 to suspend or cancel an asbestos removal licence or asbestos assessor licence within 14 days after making the decision.

(2) The notice must—
(a) state that the licence is to be suspended or cancelled (as applicable); and
(b) if the licence is to be suspended, state—
   (i) when the suspension begins and ends; and
   (ii) the reasons for the suspension; and
   (iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the suspension ends; and
   (iv) whether the licence holder is disqualified from applying for a further licence during the suspension; and

Consultation draft
(c) if the licence is to be cancelled, state—
   (i) when the cancellation takes effect; and
   (ii) the reasons for the cancellation; and
   (iii) whether the licence holder is disqualified from applying for a further licence; and

(d) if the licence holder is disqualified from applying for a further licence, state—
   (i) when the disqualification begins and ends; and
   (ii) the reasons for the disqualification; and
   (iii) whether the licence holder is required to undergo retraining or reassessment or take any other action before the disqualification ends; and
   (iv) any other class of licence under these regulations that the licence holder is disqualified from applying for; and

(e) state when the licence document must be returned to WorkSafe.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 523

97 Immediate suspension

(1) WorkSafe may suspend an asbestos removal licence or asbestos assessor licence on a ground referred to in regulation 93 without giving notice under regulation 95, if satisfied that—
   (a) work carried out under the licence should cease because the work may pose an imminent serious risk to the health or safety of any person; or
   (b) a corresponding regulator has suspended an equivalent licence held by the licence holder under this regulation as applying in the corresponding jurisdiction.

(2) If WorkSafe decides to suspend a licence under this regulation,—
   (a) WorkSafe must give the licence holder written notice of the suspension and the reasons for the suspension; and
   (b) the suspension of the licence takes effect on the giving of the notice.

(3) WorkSafe must then—
   (a) give notice under regulation 95 within 14 days after giving the notice under subclause (2); and
   (b) make its decision under regulation 93.
(4) If WorkSafe does not give notice under subclause (3), the sus-
pension ends at the end of the 14-day period.

(5) If WorkSafe gives notice under subclause (3), the licence re-
mains suspended until the decision is made under regulation
93.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 524

98 Licence holder to return licence document
(1) A licence holder, on receiving a notice under regulation 96,
must return the licence document to WorkSafe in accordance
with the notice.

(2) A person who contravenes subclause (1) commits an offence
and is liable on conviction,—
(a) for an individual, to a fine not exceeding [a]:
(b) for any other person, to a fine not exceeding [b].

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 525

99 WorkSafe to return licence document after suspension
WorkSafe must return the licence document to the licence
holder within 14 days after the licence suspension ends.

Compare: Model Work Health and Safety Regulations 2011 (Aust) r 526

Subpart 7—Review of decisions
100 Which decisions under these regulations are reviewable
(1) The applicant may apply for a review of any of the following
decisions:
(a) refusal to grant licence (under regulation 70):
(b) refusal to grant a licence (under regulation 74):
(c) imposition of a condition when granting or renewing a
licence (under regulation 75):
(d) refusal to renew a licence (under regulation 90).

(2) The licence holder may apply for a review of any of the fol-
lowing decisions:
(a) amendment of a licence, on WorkSafe’s initiative
(under regulation 81):
(b) refusal to amend a licence on application (or a decision
to make a different amendment) (under regulation 82):
Health and Safety at Work (Asbestos) Regulations 2015

101 How to apply for review

(1) A review application is made by giving an application that complies with subclause (2) to WorkSafe.

(2) The application must—

(a) be in writing;
(b) whenever practicable, be made on the form made available by WorkSafe for the purpose;
(c) identify the decision or decisions in respect of which it is made;
(d) state the grounds on which it is made;
(e) be made within 30 days after—
   (i) the date on which WorkSafe gave written notice of the decision in respect of which the application is made; or
   (ii) in a case where no notice of decision has been given in respect of an application for renewal of a licence, the date that is 120 days after the date on which an application for renewal of a licence was made.

Compare: 1998 No 114 s 136; 2001 No 49 s 135(1), (2)

102 WorkSafe to acknowledge receipt of review application

When WorkSafe receives a review application, it must send the applicant an acknowledgement stating when the review application was received.

Compare: 2001 No 49 s 136(a)

103 Review decisions

(1) WorkSafe must make a review decision as soon as is reasonably practicable after receiving the review application.
(2) In making a decision on the review, WorkSafe must have regard to—
   (a) any written submissions made by the applicant; and
   (b) any action taken by the applicant to address a matter, or to prevent the recurrence of a matter, that was a ground for WorkSafe’s original decision.

(3) In making a review decision, WorkSafe must—
   (a) dismiss the application and confirm the decision; or
   (b) vary the decision; or
   (c) withdraw the decision.

(4) A review decision must—
   (a) be in writing; and
   (b) contain the reasons for the decision.

Compare: 2001 No 49 ss 144(2), 145(1), (3), (4)

104 Appeal to District Court

(1) An applicant may appeal to a District Court against a review decision.

(2) The appeal must be brought within 28 days after the date on which the appellant was given notice of the decision, or within such longer period as the court may allow.

(3) The appeal must be brought by filing a notice of appeal in the registry—
   (a) nearest to the residence, registered office, or principal place of business of the appellant; or
   (b) nearest to the office of WorkSafe at which the decision subject to appeal was made.

(4) On an appeal under subclause (1), the court must inquire into the decision and may—
   (a) confirm, vary, or set aside the decision; or
   (b) refer the matter back to WorkSafe with directions for WorkSafe to reconsider the whole or any specified part of the matter.

(5) Subject to any order of the court, every decision of WorkSafe against which an appeal is brought continues in force and has effect pending the determination of the appeal.
Subpart 8—General

105 Asbestos removal licence register
WorkSafe must keep a register of—
(a) each person holding an asbestos removal licence; and
(b) each supervisor nominated to WorkSafe in relation to an asbestos removal licence.
Compare: Model Work Health and Safety Regulations 2011 (Aust) r 527

106 Asbestos assessors register
WorkSafe must keep a publicly available register of each person holding an asbestos assessor licence.
Compare: Model Work Health and Safety Regulations 2011 (Aust) r 528

Part 6
Miscellaneous provisions

107 Safe work instruments
For the purposes of these regulations, safe work instruments may be made in accordance with section 234 of the Act in relation to any of the following matters:
(a) prescribing a method for determining the level of asbestos in soil:
(b) prescribing the form of labels that must be affixed to products or containers containing asbestos to indicate the presence of asbestos:
(c) declaring a system to be a certified safety management system.

108 Delegation
(1) WorkSafe may delegate any of its functions under these regulations to a person or organisation that WorkSafe considers to be suitably qualified for the purpose.
(2) Sections 73 to 76 of the Crown Entities Act 2004 apply to a delegation made under this regulation.
(3) A delegation made under this regulation may be made subject to conditions.
109 **Transitional, savings, and related provisions**
The transitional, savings, and related provisions set out in Schedule 2 have effect according to their terms.

110 **Revocation**

---

**Schedule 1**

<table>
<thead>
<tr>
<th>Item</th>
<th>Fee payable ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application for Class A asbestos removal licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application for Class B asbestos removal licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application for asbestos assessor licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application for renewal of Class A asbestos removal licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application for renewal of Class B asbestos removal licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application for renewal of asbestos assessor licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Amendment to add new nominated supervisor to Class A asbestos removal licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Amendment to add new nominated supervisor to Class B asbestos removal licence</td>
<td>xx.00</td>
</tr>
<tr>
<td>Amendment to upgrade nominated supervisor from Class B supervisor to Class A supervisor</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application to amend licence conditions</td>
<td>xx.00</td>
</tr>
<tr>
<td>Application for replacement licence document</td>
<td>xx.00</td>
</tr>
</tbody>
</table>
Schedule 2  
Transitional, savings, and related provisions

1 Interpretation
In this schedule, **1998 regulations** means the Health and Safety in Employment (Asbestos) Regulations 1998.

2 Transitional and savings provision for identifying and indicating presence of asbestos at workplace
(1) This clause applies to—
(a) every employer in control of a place of work to which, immediately before the commencement of these regulations, regulation 5 of the 1998 regulations applied; and
(b) every PCBU with management and control of a workplace.

(2) Until [30 June 2018], an employer or a PCBU to whom this clause applies—
(a) must, in spite of regulation 110 of these regulations, comply with regulations 5(2) and 6 of the 1998 regulations (relating to testing a substance in accordance with specified method, and asbestos hazard warning notices); and
(b) is not required to comply with regulations 7 (asbestos to be identified or assumed at workplace), 8 (analysis of sample) and 9 (presence and location of asbestos to be indicated) of these regulations.

3 Transitional provision relating to asbestos register
Until [30 June 2020]—
(a) a PCBU with management or control of a workplace is not required to comply with regulations 10–13 (relating to asbestos register); and
(b) a licensed asbestos removalist is not required to comply with regulation 36 (asbestos removalist must obtain register).
4 Transitional provision relating to asbestos management plan
Until [30 June 2018], a PCBU with management or control of a workplace is not required to comply with regulations 14 (asbestos management plan) or 15 (review of asbestos management plan).

5 Transitional provision relating to training workers about asbestos
Until [30 June 2017], a PCBU with management or control of a workplace is not required to comply with regulation 18 (duty to train workers about asbestos).

6 Transitional and savings provision relating to certificates of competence and licensing
(1) A certificate of competence issued under regulation 26 of the 1998 regulations remains valid under these regulations until its expiry, or until [30 June 2017], whichever is earlier.

(2) For the period during which a certificate remains valid under subclause (1),—
   (a) if the certificate specifies that the restricted work that the holder is authorised to undertake includes removal of friable asbestos, the certificate is taken to be a Class A asbestos removal licence for the purposes of regulations 31 (duty to ensure asbestos removalist is licensed) and 58 (requirement to hold Class A asbestos removal licence); and
   (b) if the certificate does not specify that the restricted work that the holder is authorised to undertake includes removal of friable asbestos, the certificate is taken to be a Class B asbestos removal licence for the purposes of regulation 60 (requirement to hold class B asbestos removal licence).

(3) Until [30 June 2017],—
   (a) neither a licensed asbestos removalist nor the holder of a certificate that remains valid under subclause (1) is required to comply with regulations 32–35 (relating to supervision of asbestos removal work and training of asbestos removal workers); and
Health and Safety at Work (Asbestos) Regulations 2015

(b) no person is required to comply with regulations 46–47 (relating to clearance inspection and clearance certificates) or 62 (requirement to hold asbestos assessor licence).

(4) The holder of a certificate mentioned in subclause (1) is entitled, on application made before [30 June 2017] and accompanied by the prescribed fee (if any), to be granted a Class B asbestos removal licence and to be approved by WorkSafe as a nominated supervisor.

(5) Nothing in subclause (4) prevents the holder of the certificate from obtaining a Class A asbestos removal licence in the manner prescribed in regulations 66 (content of application: Class A asbestos removal licence) and 70 (decision on application).

Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on [date], are made under the Health and Safety at Work Act 2015 (the Act).

Part 2 of the Act imposes general duties on persons conducting a business or undertaking (PCBU) to ensure, so far as is reasonably practicable, that the workplace is without risks to the health and safety of any person. The effect of these regulations, which are based on corresponding provisions in the Model Work Health and Safety Regulations (Aust), is to impose additional duties on PCBUs in relation to work involving asbestos (including work on sites containing asbestos-contaminated soil).

Part 1 (regulations 5 to 30) of these regulations prohibits a PCBU from carrying out, or directing or allowing a worker to carry out, work involving asbestos, other than in circumstances expressly permitted. It imposes a general duty on PCBUs at a workplace to eliminate exposure to airborne asbestos at the workplace. It provides for a range of mechanisms to manage asbestos risks, including the impos-
ition of the following duties on PCBUs with management or control of a workplace:

- to identify asbestos and asbestos containing material at the workplace
- to prepare and keep an asbestos register and an asbestos management plan
- to provide appropriate health monitoring to a worker carrying out asbestos removal work who is at risk of exposure to asbestos
- prior to demolition or refurbishment, to identify and remove asbestos and ensure emergency procedures are developed.

*Part 2 (regulations 31 to 47)* deals with asbestos removal. It requires asbestos removal work to be licensed, and requires notification of that work to WorkSafe and other persons by the PCBU with management or control of the workplace and by licensed removalists. It also requires licensed asbestos removalists to ensure asbestos removal workers have appropriate training, and to provide information about the health risks of exposure to asbestos and the need for health monitoring. Part 2 requires licensed asbestos removalists to obtain a copy of the asbestos register for a workplace and the prepare an asbestos removal control plan for any licensed asbestos removal work. It includes measures to limit access to an asbestos removal area, as well as for decontamination facilities and disposal of asbestos waste. This Part also provides for clearance inspections to be undertaken of an asbestos removal area after asbestos removal work is complete to verify that the area is safe for normal use.

*Part 3 (regulations 48 to 50)* deals with air monitoring and related requirements for Class A asbestos removal work. It requires certain action to be taken if the level of respirable asbestos fibres is too high. Regulation 50 requires certain safety measures to be employed when removing friable asbestos.

*Part 4 (regulations 51 to 57)* is concerned with asbestos-related work. It imposes duties on PCBUs to:

- ensure analysis of a sample is undertaken by an IANZ-accredited laboratory if the PCBU is uncertain whether asbestos or ACM is present at a workplace
- give to a person likely to be engaged to carry out asbestos-related work information about the health risks and health ef-
effects associated with exposure to asbestos and about the need for and details of health monitoring of a worker carrying out asbestos-related work

• ensure asbestos-related work is carried out in an area that is separated from other work areas and that is properly delineated by barriers

• ensure air monitoring of the asbestos-related work area is carried out if there is uncertainty as to whether the airborne contamination standard for asbestos is likely to be exceeded

• ensure decontamination facilities are available when asbestos-related work is carried out and that anything likely to be contaminated is decontaminated or sealed in a decontaminated container before being removed from the workplace, and

• ensure that asbestos waste and personal protective equipment used in asbestos-related work is properly disposed of (or in the case of clothing, properly laundered or stored).

Part 5 (regulations 58 to 106) governs the licensing of asbestos removalists and asbestos assessors. It prescribes the types of work for which a Class A asbestos removal licence, a Class B asbestos removal licence, or an asbestos assessor licence is required. Part 5 also sets out the process for applying for and obtaining a licence, including the criteria that must be satisfied for the grant of each type of licence. This Part contains provisions regulating licence documents, alterations to licences, renewal of licences, and the suspension and cancellation of licences. Provision is made for the review of certain licensing decisions, and for appeal to the District Court in relation to a review decision.

Part 6 (regulations 107 to 110) contains miscellaneous provisions relating to:

• matters on which safe work instruments may be made under section 234 of the Act

• delegation by WorkSafe of any of its functions under the regulation

• transitional and savings provisions, and

• the revocation of the Health and Safety in Employment (Asbestos) Regulations 1998 (the revoked regulations).

Schedule 1 prescribes the fees payable for various applications under the regulations.
Schedule 2 contains transitional and savings provisions that govern the transition from the revoked regulations to these regulations, and provide that certain provisions do not need to be complied with until a specified period after the commencement of these regulations.

**Regulatory impact statement**

The [name(s) of agency/agencies] produced [a Regulatory impact statement/Regulatory impact statements] on [date] to help inform the decisions taken by the Government relating to the contents of this instrument.

[A copy of this Regulatory impact statement/Copies of these Regulatory impact statements] can be found at—

- [Insert URL link(s) to the RIS on the agency’s/agencies’ Internet site(s)]
- http://www.treasury.govt.nz/publications/informationreleases/ris

Issued under the authority of the Legislation Act 2012.

Date of notification in Gazette:

These regulations are administered by the Ministry of Business, Innovation, and Employment.